

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RAYMOND ALAN SNYDER,
Petitioner,

v.

JEFFREY UTTECHT,
Respondent.

CASE NO. 2:20-CV-01859-RAJ-DWC
ORDER

The District Court has referred this action to United States Magistrate Judge David W. Christel. Petitioner John Garrett Smith filed a federal habeas Petition, pursuant to 28 U.S.C. § 2254, seeking relief from a state court conviction. *See* Dkt. 5. Currently before the Court is Petitioner's Motion for Assignment of Counsel. Dkt. 17 ("Motion").

There is no right appointed counsel in cases brought under 28 U.S.C. § 2254 unless an evidentiary hearing is required or such appointment is necessary for the effective utilization of discovery procedures. *See McCleskey v. Zant*, 499 U.S. 467, 495 (1991); *United States v. Duarte-Higareda*, 68 F.3d 369, 370 (9th Cir. 1995); *United States v. Angelone*, 894 F.2d 1129, 1130 (9th Cir. 1990); *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); Rules Governing

1 Section 2254 Cases in the United States District Courts 6(a) and 8(c). The Court may appoint
2 counsel “at any stage of the case if the interest of justice so requires.” *Weygandt*, 718 F.2d at
3 954. In deciding whether to appoint counsel, the Court “must evaluate the likelihood of success
4 on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the
5 complexity of the legal issues involved.” *Id.*

6 In this case, Petitioner asserts he needs counsel for this action because he is not a licensed
7 attorney and his incarceration poses difficulties with discovery. Dkt. 17. At this time, the Court
8 has not determined an evidentiary hearing will be necessary. *See* Rules Governing Section 2254
9 Cases in the United States District Courts 6(a) and 8(c). Thus, counsel is not necessary at this
10 time to utilize discovery procedures. Additionally, Petitioner effectively articulated the grounds
11 for relief raised in the Petition which establish Petitioner has been able to file and understand
12 filings in this case. The grounds raised in the Petition are not factually or legally complex. *See*
13 Dkt. 5. Petitioner has also not shown he is likely to succeed on the merits of this case. Therefore,
14 Petitioner has not shown he is unable to litigate this case without the assistance of counsel.

15 The Court finds Petitioner has not shown appointment of counsel is appropriate at this
16 time. Accordingly, the request for the appointment of counsel (Dkt. 17) is denied without
17 prejudice.

18 Dated this 7th day of April, 2021.

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21 David W. Christel
22 United States Magistrate Judge
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